



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/147,094	10/27/1998	AKIHIKO YAMASHITA	P-7355-8002	1236

7590

07/22/2005

ARENT FOX KINTNER PLOTKIN & KAHN PLLC  
1050 CONNECTICUT AVENUE, N.W.  
SUITE 400  
WASHINGTON, DC 20036-5339

EXAMINER

SAJOUS, WESNER

ART UNIT

PAPER NUMBER

2676

DATE MAILED: 07/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/147,094

Applicant(s)

YAMASHITA ET AL.

Examiner

Sajous Wesner

Art Unit

2676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,7-9,11 and 13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3,7-9 and 13 is/are allowed.
- 6) ☒ Claim(s) 1,5 and 11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### **Remarks**

This communication is responsive to the amendments filed on 4/22/2005. Claims 1, 3, 5, 7-9, 11, and 13 are presented for examination.

Note that the Finality of the previous office action was sent in error. As a result, this response is hereby treated as an Amendment After-Non-Final Rejections response. The time period for response is set for three (3) months from the mailing date of this office action.

### ***Response to Amendment***

1. The amendment filed 4/14/05 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Claims 1, 5, and 11 recite the limitation "wherein a first of the plurality of time periods begins immediately after a second of the plurality of time periods ends". This limitation was not supported by the disclosure at the time the Applicant had possession of the claimed invention. Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Response to Arguments***

2. The Applicant, at pages 8 and 9 of the response, argues that in the Knowles reference, the time period does not begin immediately after a second depicted time

Art Unit: 2676

periods, hence of ordinary skill in the art would not be motivated to modify the scheduled event list of fig. 31 of Knowles to depict time periods in which there is no time gap between the depicted time periods because the user may purchase programs that are hours apart.

The Examiner, in response, respectfully disagrees. First, the Applicant needs to show support for the argued limitation in the claims. Second, in reviewing Knowles, the events list depicted in fig. 31 is noted to represent a list of purchasable programs and the time periods they will be presented for viewing. Among the list, the "Wag the Dog" is depicted as the purchased program. Hence, the 12:00-2:00 viewing time period for the "Wag the Dog" is, therefore, distinguishable over the non-purchased program, e.g., the "Sphere" (see fig. 31). And, since the claims fail to specifically suggest that the time periods that include purchased programs are time periods that are within a 24-hour day schedule (assuming that support is shown for the limitation in the claims), it is the Examiner's broad interpretation that the scheduled purchase programs depicting a 12:00-2:00 time frame on Thursday in Knowles meets the immediate beginning of the first time period after the second or the 10:00-2:30 ending time period of the "Sphere" programming. Thus, the ordinary skill in the art would not be motivated to modify the scheduled event list of fig. 31 of Knowles to depict time periods in which there is no time gap between the depicted time periods, for the program information that is displayed is associated with PPV programs that are currently and will be showing (e.g., on channel 152) in the near future. The immediate beginning of time period is hereby interpreted as the next start time of a purchased program. As such, the displayed information is

Art Unit: 2676

associated with purchasable programs, and the highlighted one with time period is distinguished as a purchased program . Thus, the Applicant's arguments are not deemed persuasive. Hence, the rejections are maintained.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 5 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 1, 5, and 11, the limitation "wherein a first of the plurality of time periods begins immediately after a second of the plurality of time periods ends" is not supported by the specification or the drawings. This cited for fails to enable the ordinary skilled in the art how to make use of the invention in a manner commensurate to the scope of the claims. In the event the Applicant disagrees with the rejections, the Applicant is required to direct the Examiner to the section of the disclosure that supports for the added limitation in the claims.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 5, 11 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Knowles et al. (US 2003/0079227), filed on July 29, 1998.

Considering claim 1, Knowles discloses a program guide display system apparatus comprises means (e.g., item 21 of fig. 1C) for displaying a plurality of program guides on a display unit in a matrix form by using one of the ordinate and the abscissa as a channel number axis and another one as a time axis (see fig. 3); means (see fig. 31) for determining whether any of a plurality of consecutive time periods includes a purchased one of a plurality of purchasable programs (e.g., notifying a user of an already schedule PPV program, see paragraph 89); and means for distinguishing on the display unit between the time periods which include a purchased one of the plurality of purchasable programs (e.g., PPV schedule times) and the time periods which do not include any purchased one of the plurality of purchasable programs (e.g., display a plurality of PPV scheduled times and/or future purchases, see paragraph 70). See paragraphs 70, 88 and 89, and paragraph 207.

It is noted that although Knowles is not specific about distinguishing on the display unit of a plurality of time periods that do not include the non-purchasable programs. Knowles, however, suggests, at paragraph 70, that a plurality of PPV

Art Unit: 2676

scheduled times and/or future purchases are displayed on a user TV, and depicts at fig. 31 the selection of a purchase program (e.g., "whag the dog") that starts at 12:00 pm. This recitation is noted to imply that a plurality of future purchases program times and a plurality of PPV scheduled times can be provided to the user of Knowles; wherein the program purchase time of 12:00 pm (see fig. 31) is distinguishable over any non-purchased program times on that display, which may include the plurality of future purchases program times and a plurality of PPV scheduled times. By this, it obvious and/or would have been found obvious by those of artisan skilled in the art that the Knowles reference can or would have implemented the distinguishing on the display unit between a plurality of time periods that do not include the non-purchasable programs and the purchased program times. The purpose would be to prevent a user from unknowingly allowing purchasing the same program twice. See paragraph 88.

The invention of claim 5 contains features that are analogous to the limitations recited in claim 1. This being the case, claim 5 is rejected under the same rationale as claim 1.

Claim 11 contains features that are analogous to the limitations recited in claim 1. This being the case, claim 11 is rejected under the same rationale as claim 1.

### ***Allowable Subject Matter***

7. Claims 3, 7-9 and 13 are allowed because the prior art of record fail to teach program guide controlling apparatus comprises means for distinguishing on the display unit between the time periods which include a purchased one of the plurality of

Art Unit: 2676

purchasable programs and the time periods which do not include any purchased one of the plurality of purchasable programs, wherein the means for distinguishing comprises at least one first color associated with the time periods which include a purchased one of the plurality of purchasable programs and at least one second color which is different than the at least one first color and is associated with the period of times which do not include any purchased one of the plurality of purchasable programs (as in re claim 3); and means for distinguishing on the display unit between at least one time periods selected by a user and time periods not selected by the user, wherein the means for distinguishing comprises at least one first color associated with the at least one time periods selected by the user, and at least one second color which is different than the at least one first color and is associated with time periods not selected by the user (as in re claims 7 and 13). The Steading (US 2002/0047894) reference meets the above limitations. However, Steading has a later filing date than the priority date of the instant application.

### Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within



Art Unit: 2676

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajous Wesner whose telephone number is 571-272-7791. The examiner can normally be reached on Mondays thru Fridays between 11:00 AM and 7:00 PM.

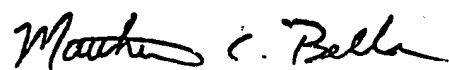
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wesner Sajous -WS-



7/14/05



MATTHEW C. BELLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600